

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**CONDITIONAL USE PERMIT REPORT FCU-10-06**  
**JUNE 22, 2010**

A report to the Flathead County Board of Adjustment, regarding a request by Gary Krueger for a conditional use permit to allow for Gravel Extraction allowing batching facilities in the West Valley Zoning District.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on July 6, 2010 beginning at 6:00 PM in the 2<sup>nd</sup> floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

The proposed land use is located within the advisory jurisdiction of the West Valley Land Use Advisory Committee (Committee). The Committee will hold a public meeting to review the proposed land use and make a recommendation to the Flathead County Board of Adjustment on June 29, 2010 at 7:00 PM. This space is reserved for a summary of the Committee's discussion and recommendation.

**B. Board of Adjustment**

The Flathead County Board of Adjustment will hold a public hearing on the proposed land use on July 6, 2010 beginning at 6:00 PM. This space is reserved for a summary of the Flathead County Board of Adjustment's discussion and decision at that hearing.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant**

Gary Krueger  
805 Church Drive  
Kalispell, MT 59901

**ii. Landowner(s)**

Kenneth & Beulah Krueger, and Gary and Jessica Krueger  
805 Church Drive  
Kalispell, MT 59901

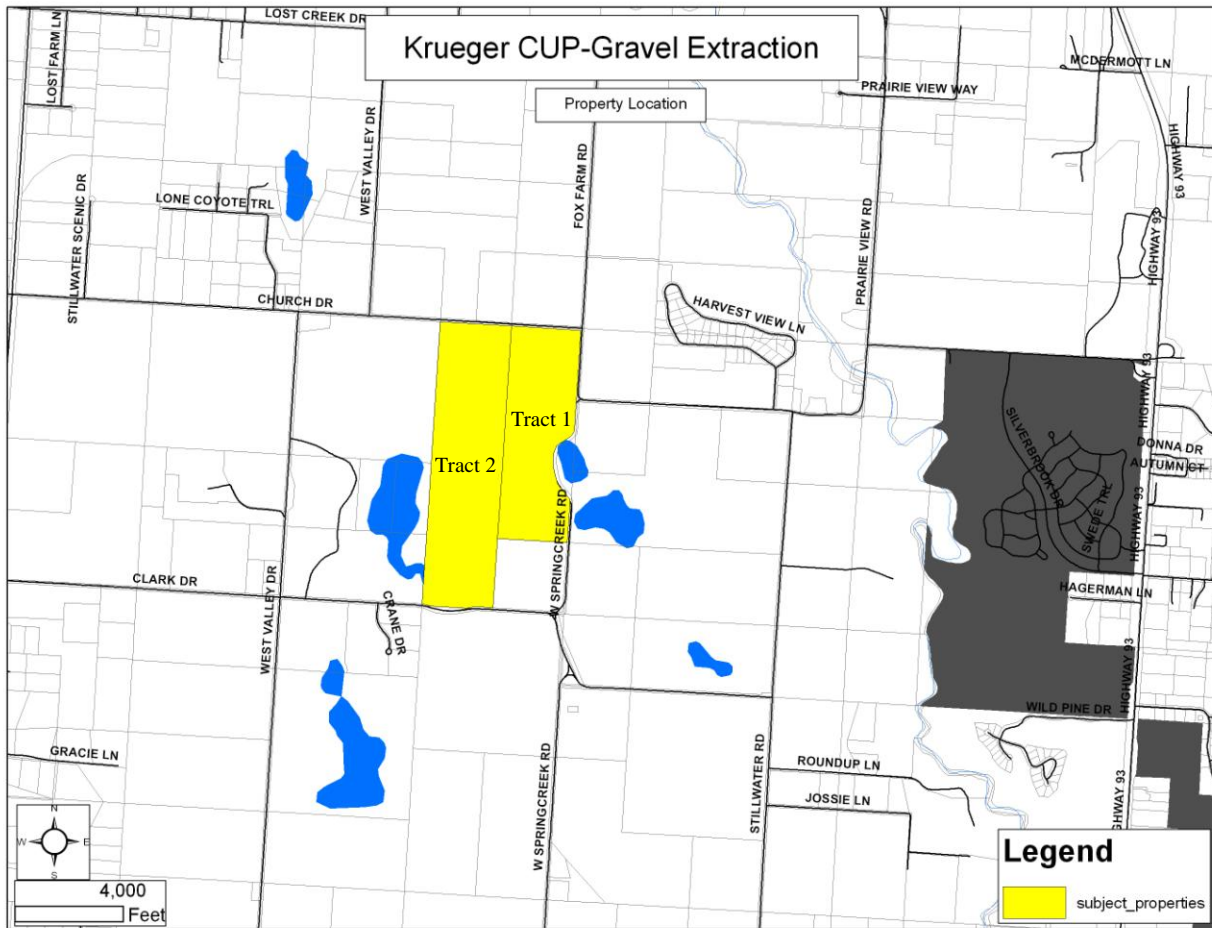
**iii. Technical Assistance**

NONE

**B. Property Location and Size**

The site is located at the intersection of West Springcreek Road and Church Drive northwest of Kalispell, MT (figure 1). The subject properties can legally described as Assessor's Tracts 1 and 2 in Section 15, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

**Figure 1: Subject properties (yellow)**



### **C. Existing Land Use(s) and Zoning**

The property is zoned West Valley. The West Valley Zoning District is intended to promote orderly growth and development in the West Valley area. Gravel Extraction is a conditional use in the West Valley Zoning District. There are two tracts involved in the current proposal. Tract 1, the eastern tract in figure 1, is primarily in agricultural production. About 12 acres is the main Krueger farmstead which has an employee house and stores all of the operations farm equipment. Tract 2, the western tract in figure 1, is used for agricultural production and gravel extraction. The applicant has two permitted gravel pits operating. The first of which was approved in 2006 (FCU-06-02), and the second (an expansion of the first) was approved in 2009 (FCU-08-19).

### **D. Adjacent Land Use(s) and Zoning**

The properties adjacent to the subject property are zoned West Valley except one property to the northeast which is zoned AG-40 (figure 2). All of the properties adjacent to the subject property are in large lot agricultural production with associated farming activities and farm houses (figure 3).

Figure 2: Zoning in the surrounding area.

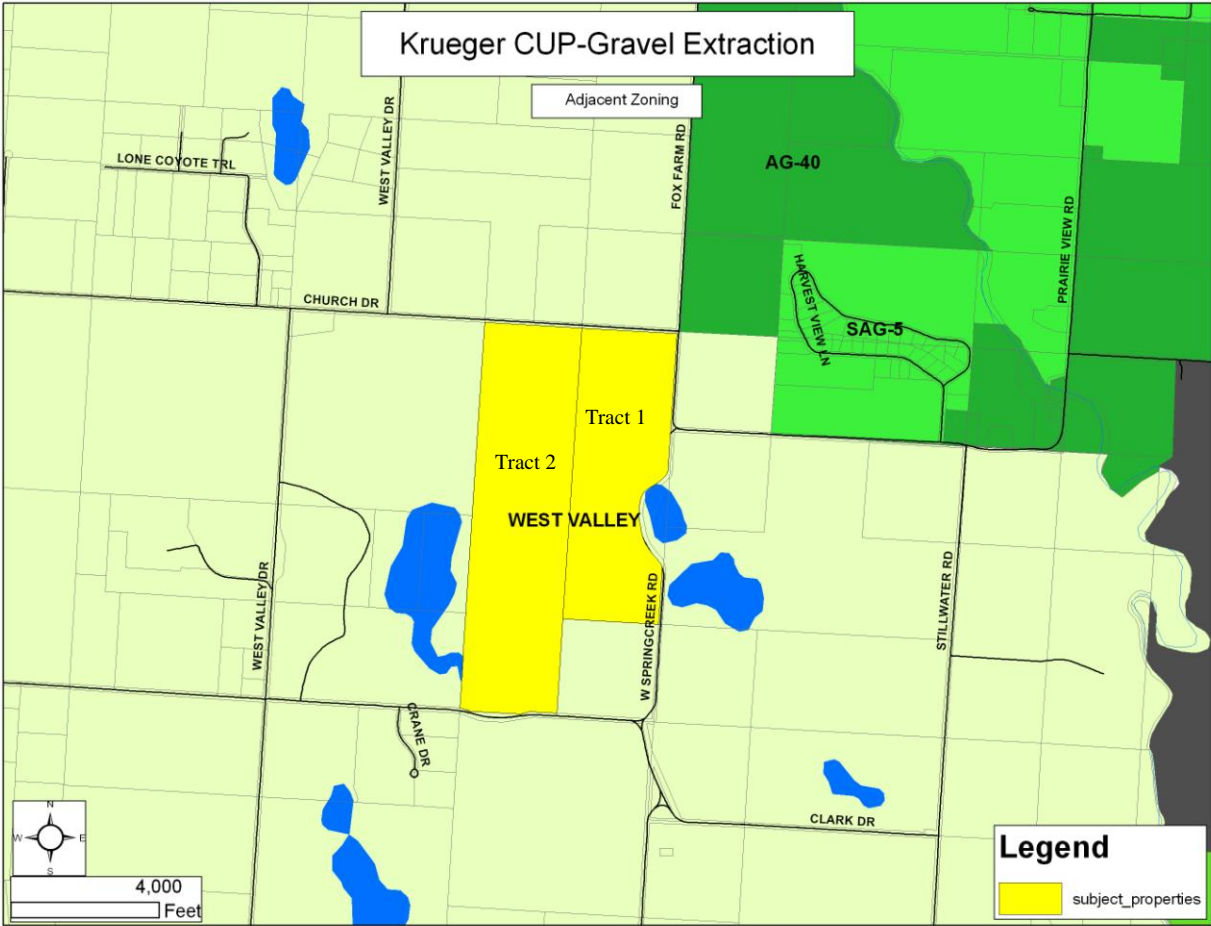
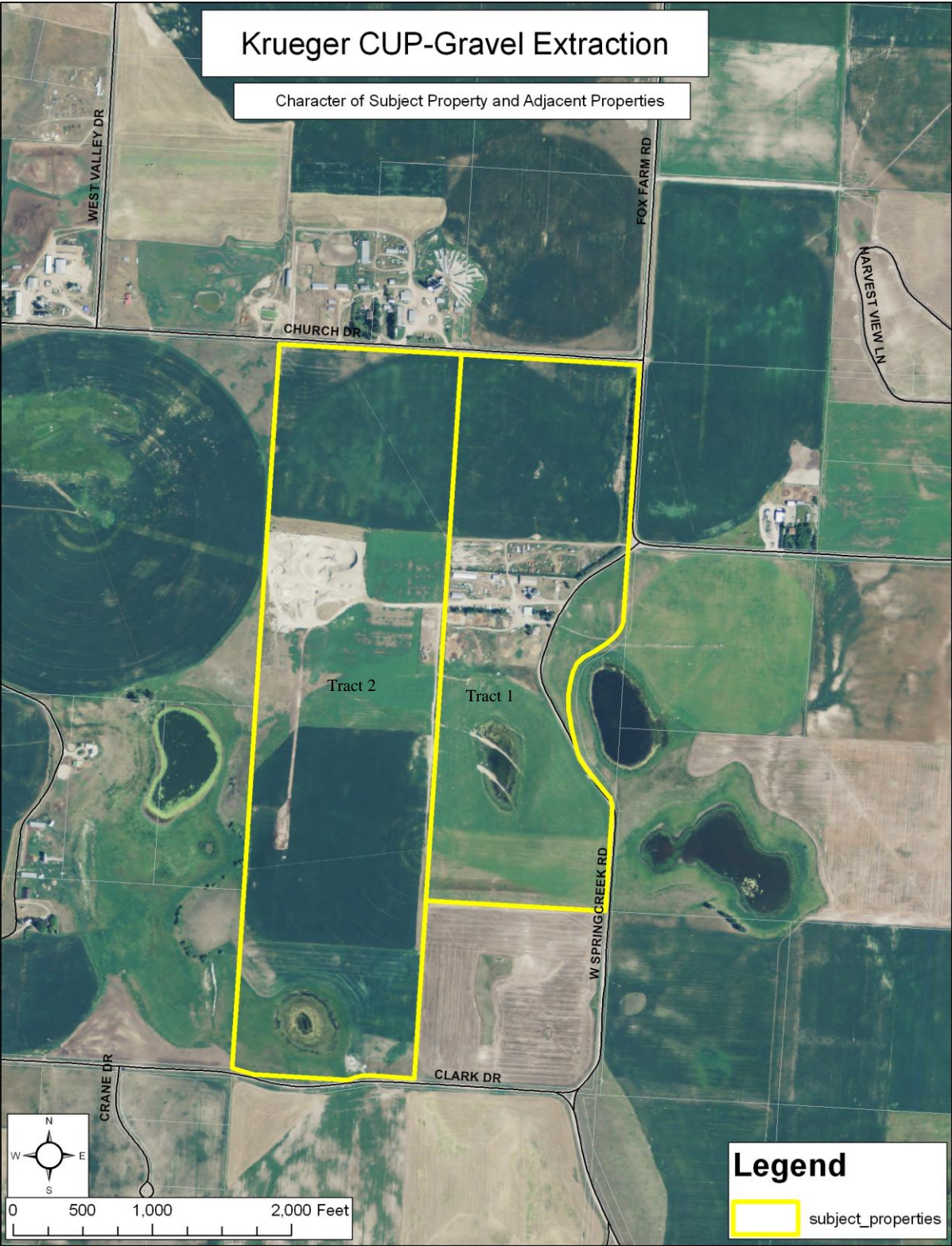


Figure 3: Character of the immediate area.



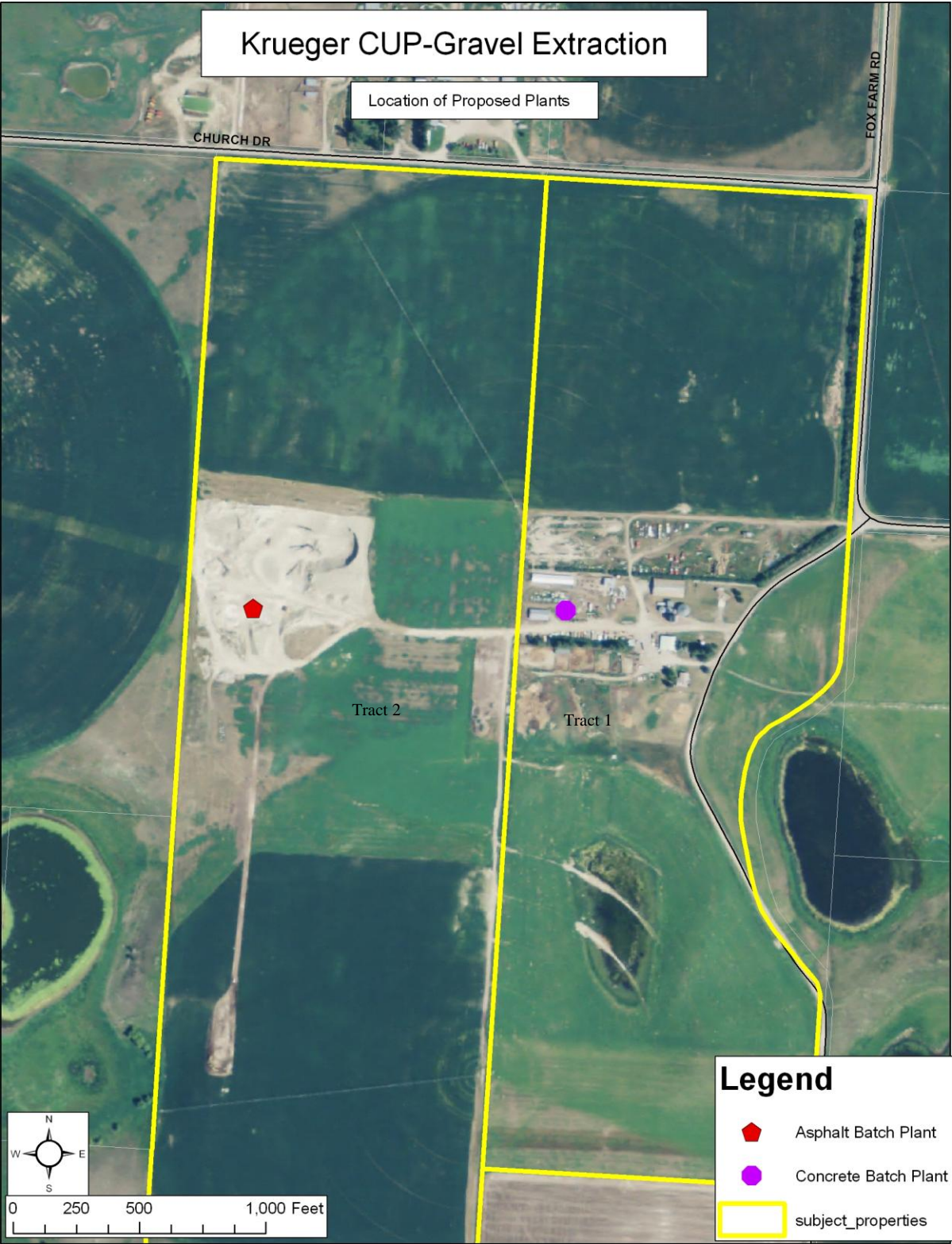
#### **E. Summary of Request**

The applicant is applying for a conditional use permit for Gravel Extraction as defined by Section 7.080.25 Flathead County Zoning Regulations (FCZR) within the West Valley Zoning District. The definition of Gravel Extraction was approved through a zoning text amendment by the Flathead County Commission by Resolution Number 955 HE on March 1, 2010. This amendment defined Gravel Extraction to include the processing of gravel through crushing, screening, asphalt, wash and concrete plants. Gravel Extraction was not previously defined in the regulations.

The applicant is proposing to install two types of batch plants on two tracts of land (figure 4). A concrete batch plant is proposed to be installed on Tract 1. Concrete batch plants combine, distribute and weigh gravel, sand, water, and chemical mixtures such as lye into a mixing truck. The mixing truck then transports the cement to construction sites. A temporary asphalt batch plant is proposed on Tract 2. Asphalt batch plants require mixed aggregates, sand and filler be heated and then mixed with a petroleum based product resembling tar. The heated mixture is then distributed into trucks and then hauled to construction sites.



Figure 4: The approximate location of the proposed batch plants.



The concrete batch is proposed to be placed approximately 500 feet off of West Springcreek Drive on the pit road within the developed farmstead area. The concrete batch plant will be constructed as a permanent structure. The asphalt batch plant will be constructed within the staging area at the bottom of the existing permitted gravel pit. The asphalt batch plant will be a temporary plant.

The applicant has a permitted gravel pit on Tract 2. The gravel pit was originally approved by the BOA through the conditional use processes in 2006, and then expanded through the conditional use process in 2008, and approved in 2009. This application is also considering Section 3.30.020 (3.) requiring multiple uses per tract of record to receive a conditional use permit. This applicant is intending to supersede conditions in previously approved permits that restrict the use of batch plants. Batch plants were not allowed in the West Valley Zoning District at the time those permits were approved.

#### **F. Compliance With Public Notice Requirements**

A notice of the request and public hearing was mailed to property owners within one hundred and fifty (150) feet of the subject property on June 9, 2010. Legal notice was published in the Daily Interlake newspaper on June 20, 2010.

#### **G. Agency Referrals**

Referrals were sent to the following agencies on May 26, 2010:

- Flathead County Public Works/Road and Bridge Department
  - Reason: To identify if there are concerns with county roads.
- Flathead County Solid Waste
  - Reason: To identify if there are concerns with solid waste.
- Flathead City-County Health Department
  - Reason: To identify if there are concerns with storm water, wastewater, or water supply.
- Flathead County Weed and Parks Department
  - Reason: To identify any issues with noxious weeds.
- Flathead Conservation District
  - Reason: To identify any issues with open water or wetlands.
- Montana Department of Transportation
  - Reason: To identify any issues with State roadways or right-of-way.
- Bonneville Power Administration
  - Reason: To identify if there are any BPA easements on the subject property.
- West Valley Fire District
  - Reason: To identify any concerns of the West Valley Volunteer Fire Department.

- Montana Department of Natural Resources and Conservation
  - Reason: To identify any issues with groundwater or with water rights.

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

As of 5:00 pm of June 22, 2010, no public comments have been received. Any public comments received after June 22, at 5:00 pm will be distributed directly to the appropriate boards at the time of the public meeting/hearing.

#### **B. Agency Comments**

As of 5:00 pm of June 22, 2010, the following agency comments have been received. Any agency comments received after June 22, at 5:00 pm will be distributed directly to the appropriate boards at the time of the public meeting/hearing.

- DNRC Water Resources
  - The proposed use of water from the well appears to meet the limits of no more than 35 gallons per minute and 10-acre feet per year. The DNRC suggest including any water use included in sanitation, maintenance, and wash facilities.
- Bonneville Power Administration
  - The proposal will not affect any transmission lines. BPA does not have any objections to the approval of the request.
- Flathead County Weed/Parks/Recreation & Building Maintenance
  - Submitted a Noxious Weed Education/Compliance Inspection Record
- Flathead County Road and Bridge Departments
  - Restricting haul trucks to paved roads would limit unacceptable impacts due to dust.
  - Roadway studies have been done and show the use for the previously approved gravel pit is acceptable.

### **IV. CRITERIA REQUIRED FOR CONSIDERATION**

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

The application is for gravel extraction (an asphalt batch plant and a concrete batch plant on two separate tracts), and is considering multiple primary uses for each tract.



## **A. Site Suitability**

### **i. Adequate usable space**

The two tracts that comprise the subject properties total over 275 acres. The existing permitted gravel pit occupies 80 acres of Tract 2 with the operating area limited to 20 acres at any given time. The asphalt batch plant will be placed within the facilities area of the pit where the gravel extraction is occurring. The concrete batch plant will be placed in a 12 acre developed area on Tract 1. The concrete batch plant will occupy only a portion of the 12 acre developed area. The subject properties are large enough to facilitate all necessary improvements including access roads, parking, facilities, landscaping and berming and any other necessary improvements.

**Finding #1-** The proposed extractive industry will have adequate useable space because any improvements planned or required will be accommodated within the applicant's property.

### **ii. Adequate access**

Access to the subject property is off of West Springcreek Road, about 600 feet southwest of the intersection of West Springcreek Road and Church Drive. The first 100 feet of West Springcreek Road is paved, the remaining 500 feet is a 22 foot wide gravel surface. West Springcreek Road and Church Drive are county roads. The access road on the property is already constructed. The road travels east to west from the permitted gravel pit on Tract 2 through the farmstead area to West Springcreek road and is wide enough to accommodate two-way heavy truck traffic. A discussion on traffic will occur in section C.vi. of this report.

**Finding #2-** The proposed extractive industry will have adequate access because subject property has direct access to a county road of which 500 feet is gravel before entering onto a paved county road.

### **iii. Absence of environmental constraints**

Soils on the property consist of a shallow loam layer with sand and gravel underneath. There are no steep slopes greater than 25% present and no known geological hazards such as fault lines. The property is not identified by the Flathead county Community Wildfire Fuels Reduction/Mitigation Plan as being in the Wildland Urban Interface. According to FEMA Firm Panel 1395G, the subject property is designated Zone X, areas determined to be outside the 0.2% annual chance floodplain.

Groundwater is estimated by the applicant to be approximately 60 to 90 feet from the surface, with a deep aquifer at 145 feet. The depth to groundwater was determined by researching existing well logs in the immediate area. The asphalt batch plant will be placed at the bottom of the permitted gravel pit. The pit is estimated to be about 25 feet deep; therefore there will be a minimum of 35 feet of separation between groundwater and the asphalt batch plant. The gravel batch plant will be at the current natural grade.

The National Wetland Inventory identifies wetlands on and adjacent to the subject property. The identified wetlands are located to the east of Tract 1, on Tract 1 south of the farmstead area, and to the west of the Tract 2 on an adjacent parcel. The wetlands can be identified visually as the areas with seasonal ponds. There are two smaller areas identified by the National Wetland Inventory that are not identifiable by seasonal ponds. Upon inspection of 2009 aerial photography, and a site visit by staff it was determined these two areas do not have any sign of ponding or wetland vegetation and are currently in agricultural production. All but one of the identified wetland areas are separated by hundreds of feet from the project area. The one identified wetland near the project area is separated by about 90 feet from the pit area. Furthermore, this wetland area cannot be identified by seasonal ponding and is currently in agricultural production.

According to the Montana Natural Heritage Program website, there are no wildlife species of concern that could potentially have habitat on the subject property. The seasonal ponds adjacent to the subject property have the potential for habitat for the Horned Grebe and the Black Tern. The subject property is not identified as winter range or critical habitat for elk, moose or bear. The subject property could potentially support whitetail deer. The applicant has occasionally seen whitetail deer, water fowl, rodents, song birds and raptors.

Asphalt batch plants require mixing aggregates, sand and filler are heated and mixed with a petroleum based product resembling tar. The petroleum based products will be stored on site. The use and storage of the petroleum based products will occur in the staging area of the permitted gravel pit and will be regulated by either the federal Occupational Safety and Health Administration (OSHA) or the federal Mine Safety and Health Administration (MSHA) depending upon the location of the materials.

Lye or other chemicals are used in the production of concrete. The materials used in the production of concrete will be stored in the farmstead area where the proposed batch plant will be placed. The storage of the materials will be regulated by the OSHA.

The asphalt batch plant does require the heating of aggregates which releases emissions. The emissions are regulated by the Montana Department of Environmental Quality and specifically addressed later in the report.

**Finding #3-** The area where the extractive industry is proposed lacks environmental constraints because seasonal ponds are separated from the location of the batch plants, there are no physical impediments such as steep slopes or floodplain, groundwater is estimated to be 60 feet or more from the surface, there is no wildlife habitat for sensitive species, storage of materials will be restricted to specific areas and regulated by federal agencies and the emissions will have to meet state air quality standards.

## **B. Appropriateness of design**

### **i. Parking scheme**

Parking will be accommodated in the farm area about 600 feet of West Springcreek Road. The proposed parking area is currently used for parking for farm related activities. The applicant is constructing a shed for housing vehicles and this structure could accommodate vehicles used in the proposed operation. Staff estimates from a site visit that the applicant has 2 to 4 acres available for parking depending upon how equipment and the concrete batch plant are organized. More could be created if needed. The proposed facility could potentially have 5 employees, and may result in 5 mixer trucks plus 3 asphalt trucks visiting the plants per day. In the event that all 5 employees are on site at the same time, and 5 mixer trucks and 3 asphalt trucks come for pick up at the same time, the site has adequate space for parking employees and queuing of trucks, plus any farm equipment that the applicant may choose to park in the area.

**Finding #4-** The proposed extractive industry's parking scheme is acceptable because the applicant has 2 to 4 acres of space which can accommodate the maximum parking needs.

### **ii. Traffic circulation**

Trucks will enter the site off of West Springcreek Road onto the pit road. The pit road, which varies in width but is wide enough for traffic to pass, extends westward through the farm area to the existing permitted gravel pit. Mixer trucks heading to the concrete batch plant will go approximately 600 feet on the pit road to where the batch plant is proposed to be. The applicant intends to position the batch plant so there could be a circular path for trucks to minimize the need to back up. Asphalt trucks would continue to the staging area within the pit where the asphalt batch plant would be.

**Finding #5-** The proposed extractive industry's traffic circulation is acceptable because the pit road is wide enough for trucks to pass and there is room for trucks to operate where the plants are proposed to be located and traffic will follow a circular path limiting the need for backing.

### **iii. Open space**

All of the activities proposed in this application would occur in areas that are part of the farmstead and within the existing permit gravel pit. No new areas of disturbance are proposed or necessary. The farmstead area on Tract 1 is approximately 12 acres. The gravel pit on Tract 2 is permitted for 80 acres, but will only be impacting 20 acres at any time. The remainder of the property is likely to remain in agricultural production.

**Finding #6-** The proposed extractive industry's open space is acceptable because the proposed uses will occur in areas of the subject property that are already developed and no new development of open space is necessary.

#### iv. Fencing/screening

The location of the gravel batch plant is screened from adjacent properties by hedgerows and trees to the north and the south. The location of the concrete batch plant can be seen from the intersection of the access road and West Springcreek Road, otherwise it is screened from a hedgerow and trees. The batch plant will likely be taller than the hedgerows but the same height or shorter than the trees. It is likely the top of the concrete batch plant will be visible for surrounding roadways.

The asphalt batch plant will sit at the bottom of the existing permitted gravel pit. The pit is 25 feet deep, and is bermed to the north an additional 10 feet. Berming will also be done on the west side of the pit to mitigate impacts to neighbors to the west. The asphalt batch plant may be taller than 35 feet with the top of the plant visible from county roads in certain locations. The base of the plant, the area where storage will be and trucks and equipment will operate, and the majority of the plant will be obscured from view.

The West Valley zoning district restricts building height to 35 feet for non-agricultural buildings (Section 3.34.040 (4.) FCZR). Section 7.03.090 defines building height as *“The vertical distance from the undisturbed ground level at the perimeter (drip edge) of the building to a parallel plane at the highest point of the roof or parapet wall. (See diagram in Appendix B)”* The diagram in Appendix B indicates the building height is measured from natural grade. The asphalt batch plant will be situated 25 feet below natural grade. The concrete batch plant will be situated at natural grade. No buildings associated with either plant can be taller than 35 feet from natural grade without the approval of a variance from the Flathead County Zoning Regulations.

**Finding #7-** Fencing and screening for the proposed extractive industry is acceptable because the applicant can utilize existing vegetation for screening for the concrete batch plant, the asphalt batch plant will be located approximately 25 feet below natural grade and building height is limited to 35 feet above natural grade.

#### v. Landscaping

The applicant will be berming the western edge of the permitted gravel pit as the pit is developed. This will be done to mitigate the potential impacts to neighbors to the west. The concrete batch plant will be in the developed farmstead area and shielded from public view as described above with the use of existing trees and hedgerows. Portions of the hedgerow and some of the trees appear to be near the end of their life cycle. The applicant is intending to replace the portions of the hedges and trees as they die.

**Finding #8-** Landscaping for the proposed extractive industry is acceptable because the western edge of the gravel pit will be bermed to mitigate impacts to neighbors to the west and existing vegetation will help shield the concrete batch plant.

**vi. Signage**

The applicant is intending to place a sign at the entrance to the pit road identifying the entrance, notice of operation and hours of operation. Section 5.11.010(4) FCZR allows signs that are required by a governmental body for informational or directional purposes, and Section 5.11.010(6) FCZR allows for directional signs. A sign identifying the road entrance, notice of operation and hours of operation would notify the public of the nature of use on the road and is a safety measure. The applicant is also planning on placing a sign at the exit of the pit road encouraging drivers to obey traffic safety laws. Any required signs shall not exceed 16 square feet in order to be clearly visible for vehicles. The signs can be lit but lighting should be shielded in a manner that only the sign is illuminated. Signs of a commercial nature specific to extractive industries are not permitted in the West Valley Zoning District. The applicant may choose to place traffic safety signs on West Springcreek Road and near the intersection of Church Drive and West Springcreek Road. These signs should be reviewed by the Flathead County Road and Bridge Department and meet their standards.

**Finding #9-** Signs associated with the proposed extractive industry is acceptable because signs on site will be required to conform to Section 5.11.010(4) FCZR and 5.11.010(6) FCZR and any traffic safety signs off site will be reviewed for compliance with the Flathead County Road and Bridge Department's standards.

**vii. Lighting**

The applicant is proposing security lighting and operations lighting associated with both of the batch plants. The applicant has stated all lighting will be pointed downward and will be extinguished when the batch plants are not operation. The area that will be lit for the asphalt batch plant is 25 feet below natural grade and therefore will be partially shielded. The area lit for the concrete batch plant will be shielded by the existing vegetation. Any lighting should be consistent with Section 5.12 FCZR.

**Finding #10-** Lighting for the proposed extractive industry are acceptable because all lighting will be compliant with Section 5.12 FCZR, shielded by either earth or vegetation, and not be used when the batch plants are not being operated.

**C. Availability of Public Services and Facilities**

**i. Sewer**

The subject property is not located within a sewer district. There is an existing septic system in the farmstead area associated with the employee housing. Employees of the batch plant could use those facilities. The applicant is not proposing the installation of a septic system for the batch plants. Sanitation for the batch plants will be provided for by a port-a-toilet and maintained by the company providing the toilet. The use is not anticipated to require a septic system because the use is not likely to necessitate a consistent need for additional restroom facilities.



**Finding #11-** An onsite septic system and the use of port-a-toilets is acceptable because employees could use the existing facilities and the port-a-toilet will service the batch plants, and be maintained by the provider.

**ii. Water**

Water is needed for batching concrete. There is an existing deep well on site, if needed a second deep well could be drilled. The proposed concrete batching plant could consume up to 405,000 gallons per year. The well is approved for a water right up to 35 gallons per minute and up to 10 acre-feet of water per year. Agency comments from the DNRC states the proposed use of the well appears to meet the limits. Wash water from the plant will be directed to a wash pond lined with clay to reduce water loss to infiltration and may incorporate a water recycling pump to reuse water for washing.

**Finding #12-** The quality and quantity of water for the proposed extractive industry is acceptable because an existing deep well on site should be capable of providing enough water to serve the use, an additional deep well could be drilled, and wash water will be directed to a clay lined pond.

**iii. Storm Water Drainage**

The asphalt batch plant will be located at the bottom of the existing permitted gravel pit approximately 25 feet below the natural grade. Storm water will be contained to this site. The concrete batch plant will sit at the western edge of the farmstead area hundreds of feet from the eastern property lines. All stormwater will be contained on site through natural infiltration or evaporation. The size and topography of the two tracts will provide adequate area for retaining stormwater on site.

**Finding #13-** The storm water drainage for the proposed extractive industry is acceptable because there is adequate space to contain stormwater on the subject property.

**iv. Fire Protection**

Fire protection is provided by the West Valley Fire Department. A fire station is located on West Valley Drive approximately 2.5 to 3.5 miles from the site depending upon the route. The applicant has a 25,000 gallon tank on site with drafting capable for additional fire protection.

**Finding #14-** Fire protection for the proposed extractive industry is acceptable because the distance to the West Valley Fire Department's nearest station is approximately 2.5 miles from the subject property and the applicant has 25,000 gallon tank on site with drafting capability.

**v. Police Protection**

Police protection is the responsibility of the Flathead County Sheriff's Department. The subject property is located approximately 9 miles from the Sheriff's office in Kalispell depending upon the route. Response times are expected to be similar to other rural areas within the Flathead Valley.

**Finding #15-** Police protection for the proposed extractive industry is acceptable because response times are expected to be similar to other rural areas within the Flathead Valley.

**vi. Streets**

Trucks entering and exiting the subject property will travel on West Springcreek Road to Church Drive where they will disperse to construction projects throughout the area. It is estimated the proposed use will generate 63.3 trips per day or as much as 105 trips per day on occasion. The majority of the trips will be truck traffic. Traffic counts at the intersection of West Springcreek Road and Church Drive are not available for the last 9 years. The most recent count occurred on West Springcreek Road south of the intersection with Church Drive in 2001. At that time West Springcreek Road averaged 90 trips per day. Traffic counts have been taken sporadically on Church Drive over the course of the last 10 years (table 1). The closest count to the subject property is at the intersection with Fox Farm Road. Counts there show an Average Trips Per Day (ADT) of about 400. The highest ADT were recorded near the intersection of Church Drive and US Highway 93. Throughout the 10 year period, ADT on Church Drive remained between 890 ADT to 227 ADT depending upon the location.

**Table 1: Traffic counts for the last 10 years on Church Drive.**

<b>Traffic Counts on Church Drive</b>							
(All counts are in Average Trips Per Day and taken between May and September)							
<b>Year</b>	<b>E of Farm to Market</b>	<b>W of Farm to Market</b>	<b>S of Fox Farm Rd</b>	<b>W of Fox Farm Road</b>	<b>W of US 93</b>	<b>E of Stillwater</b>	<b>W of Stillwater</b>
<b>09</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>08</b>	<b>390</b>	<b>249</b>	<b>405</b>	<b>393</b>	n/a	n/a	n/a
<b>07</b>	<b>457</b>	<b>222</b>	n/a	n/a	n/a	n/a	n/a
<b>06</b>	<b>488</b>	<b>270</b>	n/a	n/a	<b>790</b>	n/a	n/a
<b>05</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>04</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>03</b>	<b>533</b>	<b>266</b>	n/a	n/a	<b>308</b>	<b>593</b>	<b>571</b>
<b>02</b>	<b>496</b>	<b>227</b>	n/a	n/a	<b>890</b>	n/a	n/a
<b>01</b>	<b>444</b>	<b>232</b>	n/a	n/a	<b>614</b>	n/a	n/a
<b>00</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a

A Geotechnical Consultation of Church Drive and West Valley Drive pavement performed by CMG Engineering Inc. for Bruce Tutvedt and submitted for support of FCU-08-19 concludes the roadways are built to County Standards and can support “heavy traffic” associated with a collector roadway.

Trucks leaving the subject property will enter onto West Springcreek Road which is a gravel county road. Truck traffic will travel over the gravel surface for approximately 500 feet. The applicant is intending to maintain this stretch of

roadway by occasionally grading the surface and applying dust reducing treatments as needed.

**Finding #16-** The impacts of the proposed extractive industry on streets is acceptable because road counts show traffic on Church Drive is between 890 and 227 ADT depending upon the location, a Geotechnical Consultation of Church Drive and West Valley Drive pavement indicates the roadway can support heavy traffic, and the applicant will maintain about 500 feet of West Springcreek Road.

#### **D. Immediate Neighborhood Impact**

##### **i. Excessive traffic generation**

The proposal may generate up to 105 trips per day. Traffic would enter onto West Springcreek Road, travel north onto Church Drive, and from there either turn east or west on disperse to construction sites throughout the valley or beyond. Church Drive is built to county standards for a collector road.

The applicant is proposing to maintain trees or brush on the subject property to maintain sight lines at the intersection of the pit road and West Springcreek Road and at the intersection of Church and West Springcreek Road. The applicant is proposing a sign on egress reminding drivers of the importance of driving safely. The applicant is proposing a sign at the entrance to notify the public of the commercial nature of the pit road.

**Finding #17-** The impacts generated from traffic by the proposed extractive industry are acceptable because the applicant will maintain a portion of West Springcreek Drive, the proposal may generate up to 105 trips per day and Church Drive is capable of accommodating the additional traffic.

##### **ii. Noise or vibration**

The operation of both the asphalt batch plant and the concrete batch plant will create noise and vibration when operating. Noise could be generated by the sound of the batch plants engines running, gravel hitting metal surfaces, engines noises and backing signals from trucks and loaders. To mitigate noise pollution from leaving the property the applicant has stated the following:

- The asphalt plant will be located approximately 25 feet below natural grade at the bottom of the existing permitted gravel pit.
- The asphalt and concrete batch plants will be orientated to minimize sound leaving the property.
- The site would be configured to minimize the need for trucks to back up.
- Feeder bins will be lined with belting to reduce noise created by gravel hitting metal surfaces.
- Portions of the subject property are lined with hedgerows and trees.

The distance between the source of the noise or vibration and adjacent residential uses will also mitigate impacts. There are no residences within a quarter mile of the proposed batch plants.

**Finding #18-** The impacts generated by noise or vibration by the proposed extractive industry will be acceptable because the applicant will place the asphalt batch plant approximately 25 feet below natural grade, the plants will be orientated to minimize sound leaving the property, the site can be configured to minimize the need for trucks to back up, feeder bins will be lined with belting to reduce noise, portions of the property are lined with hedgerows and trees and the nearest residences are over a quarter mile from the proposed operation.

**iii. Dust, glare or heat**

The transferring and storage of gravel could be sources for dust. The applicant will cover transfer and delivery points on conveyers, feeders and bins where possible. Cement powder will be contained during transfer. Another possible source of dust is roads. The applicant will pave or apply dust abatement to the high traffic areas and roads on the subject property. Existing landscaping will help control some of the fugitive dust. The applicant is also planning on maintaining dust controlling efforts on 500 feet of West Sprincreek Road from the subject property to the pavement.

**Finding #19-** The impacts from dust, glare or heat generated by the proposal will be acceptable because the applicant will cover sources of dust where feasible and provide dust abatement on roads and parking areas.

**iv. Smoke, fumes, gas, or odors**

The production of asphalt will create smoke, fumes and odors. The applicant will be required to apply for and receive an air quality permit from the Montana Department of Environmental Quality. The amount of fumes produced will likely depend upon the type of asphalt plant installed by the applicant. Some level of smoke, fumes and odors will leave the subject property regardless of the level of permitting by the state. The Flathead County Zoning Regulations do not have performance standards for batch plants that establish requirements for buffers or distances from other structures such as schools and residences. The applicant plans to not permit the burning of materials on the site to limit smoke and fumes.

Staff conducted a search for information on establishing separation from batch plants and other uses on the internet. In Fort Worth, Texas batch plants must be a minimum of 600 feet from a parcel with dwelling<sup>1</sup>, and in Grand County, Utah batch plants must be a minimum 600 feet from a residence<sup>2</sup>. The most common approach to establish separation appears to be requiring batch plants be located in areas zoned for industrial use.

Staff conducted an analysis of the distances from the proposed asphalt batch plant site and adjacent residences using ArgGIS software and 2009 aerial photography (figure 5). Distances selected by staff were 330 feet (1/16<sup>th</sup> of a mile), 660 feet (1/8<sup>th</sup> of a mile), 1,320 feet (1/4 of a mile), and 2,640 feet (half a mile). Within

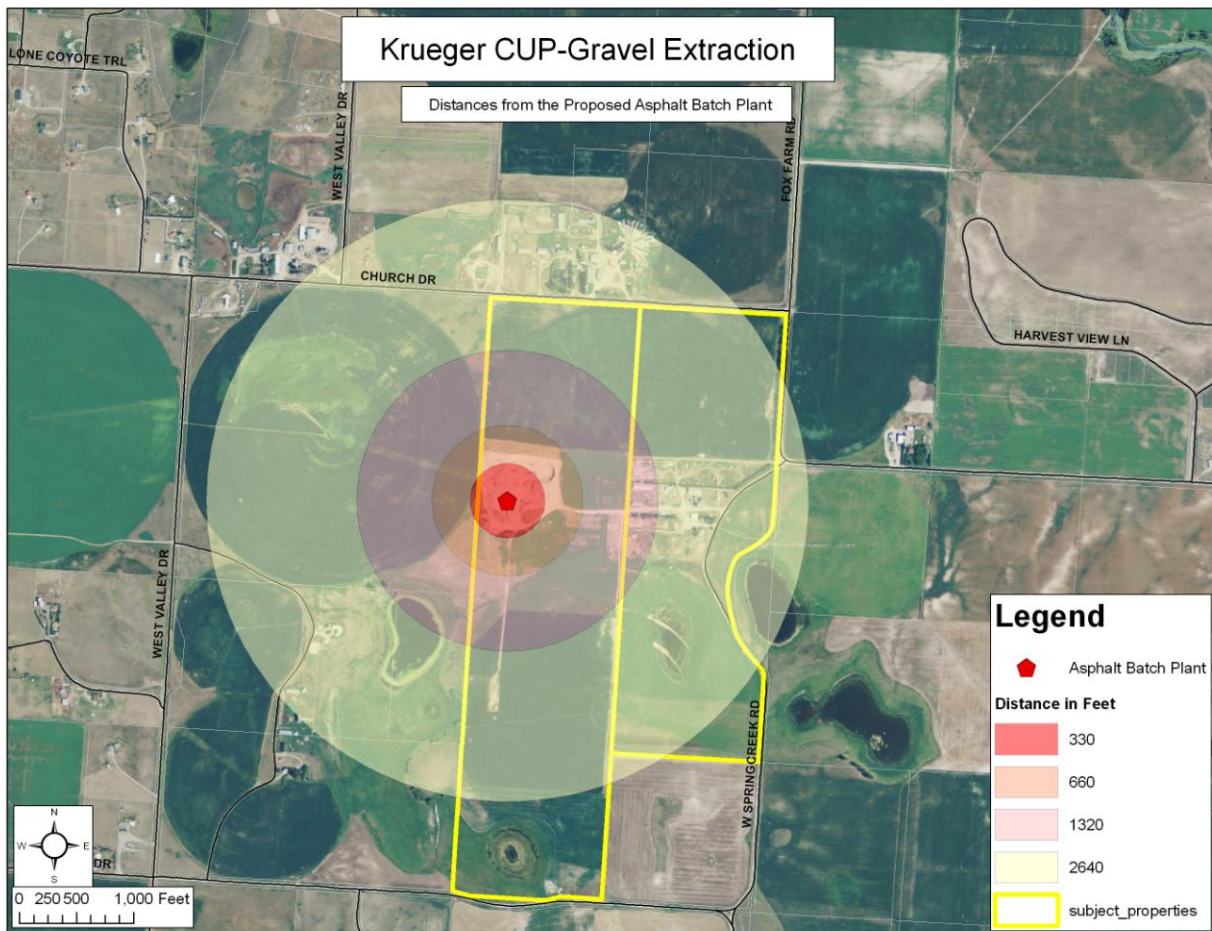
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<sup>1</sup> [http://www.fortworthgov.org/zoning/section\\_2430171922593.html](http://www.fortworthgov.org/zoning/section_2430171922593.html)

<sup>2</sup> [http://planning.utah.gov/Index\\_files/PDFs/grand3.3.3a.pdf](http://planning.utah.gov/Index_files/PDFs/grand3.3.3a.pdf)

2,640 feet, there are three residences when including the farm house on the subject property, and no residences within 1,320 feet.

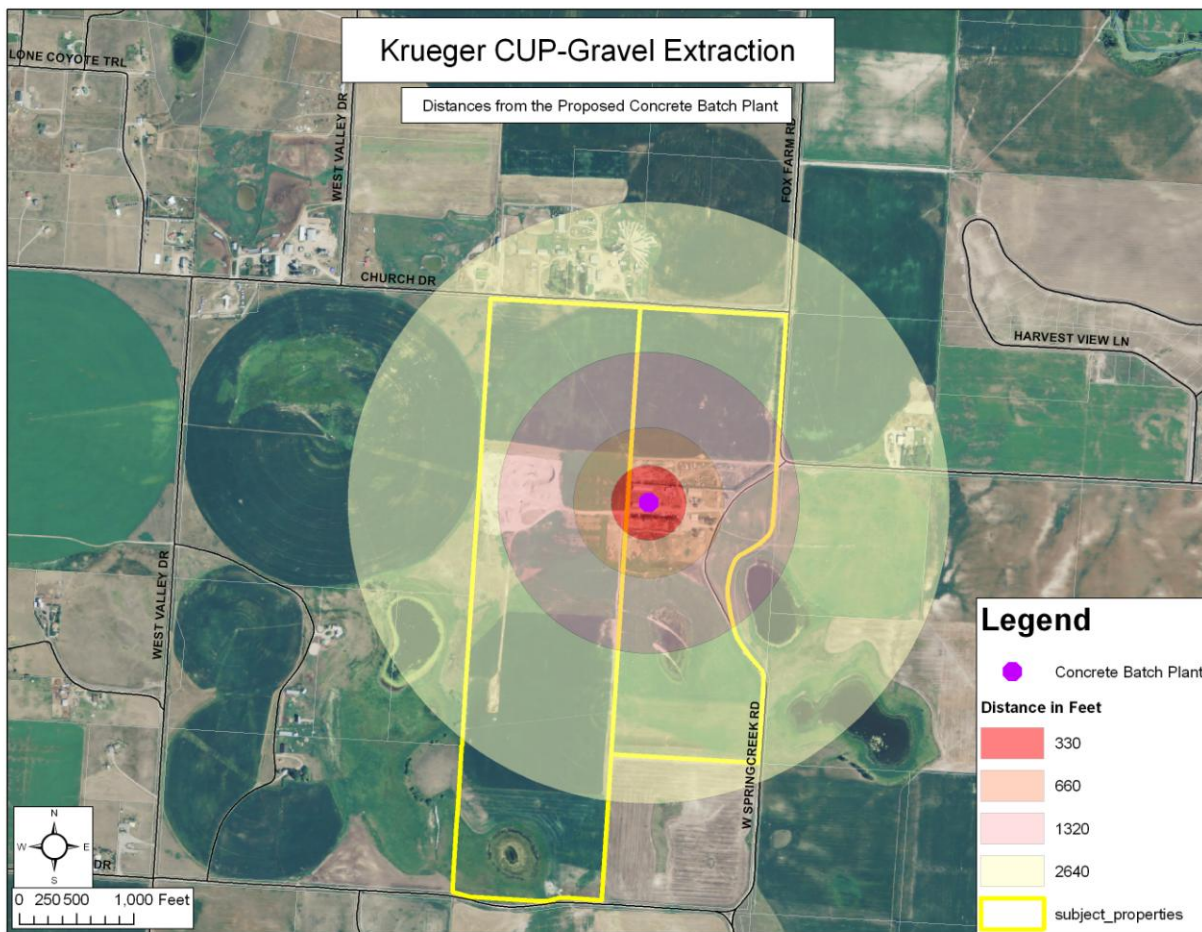
**Figure 5: Varying distances from the proposed asphalt batch plant.**



The same analysis was done for the concrete batch plant (figure 6). There are 3 residences within 2,640 feet from the subject property and only one, a house used for employees of the applicant, within 1,320 feet. The residence owned by the applicant and used as an employee house is less than 660 feet from the proposed site of the concrete batch plant, and on the same tract of record.



**Figure 6: Varying distances from the proposed concrete batch plant.**



**Finding #20-** The impacts from smoke, fumes, gas or odors generated by the proposal will be acceptable because burning of materials will be prohibited and the nearest adjacent residences are greater than 1,320 feet from the proposed batch plants.

**v. Inappropriate hours of operation**

The applicant has not described the exact proposed hours of operation for the asphalt batch plant. Rather, the applicant explained that there are special conditions under which asphalt can be mixed, the life time of the product in trucks is limited and therefore hours of operation may be outside of normal hours. The applicant is proposing the hours of operation for the gravel batch plant to be 7 am to 7 pm Monday through Saturday with a 6 am start time in May through September. The proposed hours of operation are similar to the hours of operation of the permitted gravel operations with the exception of the seasonal 6 am start time.

**Finding #21-** The hours of the proposed extractive industry are acceptable because the hours of operation will be limited to 7 am to 7 pm Monday through Saturday with a 6 am start time in May through September.

## V. SUMMARY OF FINDINGS

**Finding #1-** The proposed extractive industry will have adequate useable space because any improvements planned or required will be accommodated within the applicant's property.

**Finding #2-** The proposed extractive industry will have adequate access because subject property has direct access to a county road of which 500 feet is gravel before entering onto a paved county road.

**Finding #3-** The area where the extractive industry is proposed lacks environmental constraints because seasonal ponds are separated from the location of the batch plants, there are no physical impediments such as steep slopes or floodplain, groundwater is estimated to be 60 feet or more from the surface, there is no wildlife habitat for sensitive species, storage of materials will be restricted to specific areas and regulated by federal agencies and the emissions will have to meet state air quality standards.

**Finding #4-** The proposed extractive industry's parking scheme is acceptable because the applicant has 2 to 4 acres of space which can accommodate the maximum parking needs.

**Finding #5-** The proposed extractive industry's traffic circulation is acceptable because the pit road is wide enough for trucks to pass and there is room for trucks to operate where the plants are proposed to be located and traffic will follow a circular path limiting the need for backing.

**Finding #6-** The proposed extractive industry's open space is acceptable because the proposed uses will occur in areas of the subject property that are already developed and no new development of open space is necessary.

**Finding #7-** Fencing and screening for the proposed extractive industry is acceptable because the applicant can utilize existing vegetation for screening for the concrete batch plant, the asphalt batch plant will be located approximately 25 feet below natural grade and building height is limited to 35 feet above natural grade.

**Finding #8-** Landscaping for the proposed extractive industry is acceptable because the western edge of the gravel pit will be bermed to mitigate impacts to neighbors to the west and existing vegetation will help shield the concrete batch plant.

**Finding #9-** Signs associated with the proposed extractive industry is acceptable because signs on site will be required to conform to Section 5.11.010(4) FCZR and 5.11.010(6) FCZR and any traffic safety signs off site will be reviewed for compliance with the Flathead County Road and Bridge Department's standards.

**Finding #10-** Lighting for the proposed extractive industry are acceptable because all lighting will be compliant with Section 5.12 FCZR, shielded by either earth or vegetation, and not be used when the batch plants are not being operated.

**Finding #11-** An onsite septic system and the use of port-a-toilets is acceptable because employees could use the existing facilities and the port-a-toilet will service the batch plants, and be maintained by the provider.

**Finding #12-** The quality and quantity of water for the proposed extractive industry is acceptable because an existing deep well on site should be capable of providing enough

water to serve the use, an additional deep well could be drilled, and wash water will be directed to a clay lined pond.

**Finding #13-** The storm water drainage for the proposed extractive industry is acceptable because there is adequate space to contain stormwater on the subject property.

**Finding #14-** Fire protection for the proposed extractive industry is acceptable because the distance to the West Valley Fire Department's nearest station is approximately 2.5 miles from the subject property and the applicant has 25,000 gallon tank on site with drafting capability.

**Finding #15-** Police protection for the proposed extractive industry is acceptable because response times are expected to be similar to other rural areas within the Flathead Valley.

**Finding #16-** The impacts of the proposed extractive industry on streets is acceptable because road counts show traffic on Church Drive is between 890 and 227 ADT depending upon the location, a Geotechnical Consultation of Church Drive and West Valley Drive pavement indicates the roadway can support heavy traffic, and the applicant will maintain about 500 feet of West Springcreek Road.

**Finding #17-** The impacts generated from traffic by the proposed extractive industry are acceptable because the applicant will maintain a portion of West Springcreek Drive, the proposal may generate up to 105 trips per day and Church Drive is capable of accommodating the additional traffic.

**Finding #18-** The impacts generated by noise or vibration by the proposed extractive industry will be acceptable because the applicant will place the asphalt batch plant approximately 25 feet below natural grade, the plants will be orientated to minimize sound leaving the property, the site can be configured to minimize the need for trucks to back up, feeder bins will be lined with belting to reduce noise, portions of the property are lined with hedgerows and trees and the nearest residences are over a quarter mile from the proposed operation.

**Finding #19-** The impacts from dust, glare or heat generated by the proposal will be acceptable because the applicant will cover sources of dust where feasible and provide dust abatement on roads and parking areas.

**Finding #20-** The impacts from smoke, fumes, gas or odors generated by the proposal will be acceptable because burning of materials will be prohibited and the nearest adjacent residences are greater than 1,320 feet from the proposed batch plants.

**Finding #21-** The hours of the proposed extractive industry are acceptable because the hours of operation will be limited to 7 am to 7 pm Monday through Saturday with a 6 am start time in May through September.

## **VI. RECOMMENDATION**

There are impacts that will be produced by asphalt and concrete batch plants that cannot be contained on site. These impacts are, but may not be limited to: noise, smoke, dust and odors. There are no performance standards provided within the Flathead County Zoning Regulations for gravel extraction that indicates what types of separating between uses is needed to mitigate the impacts. In this proposal, the nearest residences are greater than 1,320 feet from the proposed use, and only three residences are present within 2,640 feet. A limited search showed two other governments require 600 feet of separation. Because of the limited density within 2,640 feet of the proposed use, staff recommends the Flathead County Board of Adjustment adopt staff report FCU-10-06 as findings of fact and approve the conditional use permit subject to the following conditions.

## **VII. CONDITIONS**

1. The asphalt batch plant shall be located within the facilities area of the permitted gravel pit as designated in the Plan of Operations. The asphalt batch plant shall be approximately 25 feet below natural grade.
2. The concrete batch plant shall be located on the western edge of tract 1 as indicated in figure 4 of this report.
3. The applicant shall contact the Flathead County Road and Bridge Department in order to obtain an approach permit for the use onto West Springcreek road if one has not been obtained. If the applicant has an approved approach, the applicant shall contact Flathead County Road and Bridge Department in order to determine if the current access can accommodate the proposed use. The applicant shall have the determination and/or the approach permit from the Flathead County Road and Bridge Department available to the Flathead County Planning and Zoning Office upon request.
4. All chemicals used in the processing of asphalt shall be stored in the facilities area of the permitted gravel pit as designated in the Plan of Operations and maintained and stored in accordance with the applicable federal regulations.
5. All chemicals used in the processing of concrete shall be stored in the farmstead area of tract 1 and maintained and stored in accordance with the applicable federal regulations.
6. The applicant shall receive an Air Quality Permit for the asphalt batch plant from the Montana Department of Environmental Quality. The permit shall be available to the Flathead County Planning and Zoning Office upon request.
7. The positioning of the asphalt and concrete batch plants shall be done in such a way to provide space around the facilities to accommodate a circular traffic pattern in order to minimize the need for trucks to back up.
8. The applicant shall maintain the vegetative screening on Church Drive and the two rows on the subject property in the following manner: Vegetative buffers shall be a minimum of 10 feet wide, existing dead trees and bushes that create gaps in the buffer shall be replaced with new bushes or trees within 1 year, dying trees and bushes that will create gaps in the buffer shall be replaced as needed over the lifetime of the batch plant operations.

9. Non-agricultural structures associated with the asphalt and concrete batch plants shall not be over 35 feet in height measured from the natural grade. Any non-agricultural structures taller than 35 feet in height measured from the natural grade would require a variance from Section 3.34.040(4) FCZR.
10. The applicant shall place a sign at the entrance of the subject property identifying the entrance to the pit road, hours of operation, and the commercial nature of the operations. This sign cannot be greater than 32 square feet.
11. The applicant shall place a sign at the exit of the subject property reminding drivers to obey all traffic safety laws. This sign cannot be greater than 32 square feet.
12. Signs can be lighted if shielded in a manner that illuminates the sign only.
13. Any signs commercial in nature are prohibited except as required by the conditions of this permit or any other previously approved conditional use permit on Tract 1 or Tract 2.
14. Any traffic safety signs posted on county roads shall be reviewed and approved by the Flathead County Road and Bridge Department. Record of the correspondence shall be available to the Flathead County Planning and Zoning Office upon request.
15. All lighting shall comply with Section 5.12 FCZR and shall be extinguished when the batch plants are not in operation.
16. The applicant shall maintain a 25,000 gallon cistern with draft capability on site for fire protection.
17. The applicant shall maintain dust control on West Springcreek Road from the entrance of the pit road northwards to the pavement.
18. Feeder bins shall be lined with belting to reduce noise.
19. The applicant shall cover transfer and delivery points on conveyers, feeders and bins where possible.
20. The applicant shall maintain a dust control program on the subject property within the operating areas used for the asphalt and concrete batch plants, and on the pit road.
21. The hours of operation shall be limited to 7 am to 7 pm Monday through Saturday with a 6 am start time in May through September.
22. All conditions approved by the Board of Adjustments in FCU-06-02 and FCU-08-19 are still applicable to those permits unless superseded by these conditions.